



PATENT--FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:) I hereby certify that this
PETER L. OREN ET AL.) paper is being deposited
Serial No.: 10/031,464) with the United States
Filed: April 29, 2002) Postal Service with
For: β -CARBOLINE PHARMACEUTICAL) sufficient postage, as
COMPOSITIONS) first class mail, in an
Attorney Docket No. 29342/36230A) envelope addressed to:
Group Art Unit: 1615) Mail Stop Amendment
Examiner: L. Channavajjala) Commissioner for Patents
Dated: August 7, 2006
James J. Napoli
Registration No. 32,361
Attorney for Applicants

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE-
PATENTING REJECTION OVER AN ISSUED PATENT**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned, having power of attorney from the assignee, Lilly ICOS LLC, has executed this document on behalf of petitioner, Lilly ICOS LLC. Petitioner is a Delaware corporation, 1209 Orange Street, Wilmington, Delaware 19801, and is the owner of 100% interest in the instant application, as shown by the assignment recorded May 8, 2002, at Reel 12877, Frame 0177. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which

08/10/2006 MBIZUNES 00000052 10031464

02 FC:1814

130.00 OP

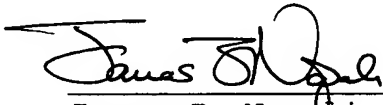
would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §154 to §156 and §173, as presently shortened by any terminal disclaimer of prior Patent No. 6,943,166. Petitioner also is the owner of 100% interest in U.S. Patent No. 6,943,166 as shown by the assignment recorded on March 25, 2002 at Reel 12740, Frame 0679. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent No. 6,943,166 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 to §156 and §173 of prior Patent No. 6,943,166, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed

to be true; further, these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereof.

The Commissioner is hereby authorized to credit any overpayment or charge any additional fees which may be required during the pendency of this application under 37 C.F.R. §1.16 or 37 C.F.R. §1.17 or under applicable rules (except payment of issue fees), to Deposit Account No. 13-2855. A copy of this transmittal is enclosed.



James J. Napoli
Registration No. 32,361

Dated: August 7, 2006

☒ Our firm check in the amount of \$130.00 is enclosed in payment of the requisite Terminal Disclaimer fee under 37 C.F.R. §1.20(d).